IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1716 OF 2007

Smt. Bhagubai Tupe and ors.... Petitioner

versus

Vithal Type and ors..... Respondent.

Shri S.S.Kanetkar for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 5TH APRIL, 2007

P.C.;

1. This writ petition is directed against an interlocutory order pased in Mesne Profit case no.4/99. A suit for partition and separate possession was decreed in favour of the respondent and pursuant thereto the repondents have also taken possession. Thereafter the presnt proceedings are initiated under Order 20 Rule 12 of CPC. The applicant/plaintiff led evidence and closed its case. Similarly the present petitioners/defendants have also closed their case after leadig evidence on 30-7-2005. Thereafter various applications are being moved by the present petitioners, which are rejected by the trial court. The application in question is the one for seeking production of documents and the rejection of the said application has given raise to the filing of the present petition.

2. Perused the impugned order passed below Exh.14. The same reveals that the case was fixed for argument long back and at that stage an application seeking amendment of the pleading was moved and after rejection of the said application the present application is moved. The case was ready for final argument in July 2005 and the same is being prolonged by the present petitioners by filing one or the other application and this fact has been so observed in the impugned order.

3. Perused the order. No case whatsoever is made out for interference with the interlocutory order. In the result, the writ petition is summarily dismissed.

4. At this stage, the learned counsel for the ptitioner seeks liberty to raise the grounds that are raised in this petition in an appeal if and in case application under Order 20 Rule 12 is allowed and the petitioners are required to file an appeal against the same. Prayer is granted.

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